



# Public Service Commission of Wisconsin

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4822 Madison Yards Way  
P.O. Box 7854  
Madison, WI 53707-7854

Public Service Commission of Wisconsin  
RECEIVED: 12/19/2023 10:54:16 AM

December 19, 2023

To the Parties:

Re: Request of Repvblik Madison Apartments LLC, for a 3270-EI-103  
Waiver of Wis. Admin. Code § PSC 113.0803(1) Regarding  
Individual Electric Meters

Comments Due:

**Thursday, January 11, 2024 - 1:30 p.m.**

This docket uses the Electronic Records Filing  
system (ERF).

Address Comments To:

**Public Service Commission**  
P.O. Box 7854  
Madison, WI 53707-7854

This is to notify you the Public Service Commission of Wisconsin (Commission) will be addressing your request for a temporary waiver of Wis. Admin. Code § PSC 113.0803(3) regarding individual electric metering in a residential apartment building. Enclosed is a copy of the Commission memorandum regarding your request.

Comments must be received by 1:30 p.m. on Thursday, January 11, 2024. Please contact the Commission immediately if an extension is needed. Party comments must be filed using the Commission's ERF system. The ERF system can be accessed through the Public Service Commission's web site at <http://psc.wi.gov>. Members of the public may file comments using the ERF system or may file an original in person or by mail at the Public Service Commission, 4822 Madison Yards Way, P.O. Box 7854, Madison, WI 53707-7854.

Please direct questions about this docket or requests for additional accommodations for persons with a disability to the Commission's docket coordinator, Kara McFerren at (608) 267-2891 or [Kara.McFerren1@wisconsin.gov](mailto:Kara.McFerren1@wisconsin.gov).

Sincerely,

Joe Fontaine  
Administrator  
Division of Digital Access, Consumer and Environmental Affairs

JF:KM:kle DL:01976212

Attachment: Commission Memorandum

# **PUBLIC SERVICE COMMISSION OF WISCONSIN**

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## **Memorandum**

December 19, 2023

### **FOR COMMISSION AGENDA**

TO: The Commission

FROM: Joe Fontaine, Administrator  
Tara Kiley, Deputy Administrator  
Bradley Rose, Bureau Director  
Kara McFerren, Consumer Analyst  
Division of Digital Access, Consumer and Environmental Affairs

RE: Request of Repvblik Madison Apartments LLC, for a Waiver 3270-EI-103  
of Wis. Admin. Code § PSC 113.0803(1) Regarding  
Individual Electric Meters

Suggested Minute: The Commission (found a waiver is/is not required) and if required granted under Wis. Admin. Code § PSC 113.01(2)/ granted under Wis. Admin. Code § PSC 113.01(2) with conditions/ granted under Wis. Admin. Code § PSC 113.0803(5)/ granted under Wis. Admin. Code § PSC 113.0803(5) with conditions/denied) the request of Repvblik Madison Apartments LLC, for a waiver of Wis. Admin. Code § 113.0803(1) regarding individual electric metering.

### **Background**

On August 30, 2023, Repvblik Madison Apartments LLC (Republik) filed a petition requesting the Commission grant a waiver of Wis. Admin. Code § PSC 113.0803 related to individual electric metering requirements for a multi-dwelling unit residential building. ([PSC REF#: 477129](#).) The Commission issued a Notice of Investigation in the docket on November 3, 2023. ([PSC REF#: 483702](#).) The notice made Madison Gas and Electric Company (MG&E), as the utility for the requesting customer, a party. No other parties have requested to intervene. No hearing was required or held.

The Commission has jurisdiction under Wis. Stat. §§ 196.02, 196.03, 196.643; and Chapter PSC 113 of the Wis. Admin. Code to establish reasonable electric metering rules,

regulations, specifications, and standards, and to grant or deny waivers of metering rules.

Wisconsin Admin. Code § PSC 113.0803 provides the individual electric metering requirements for multi-dwelling unit residential buildings, mobile home parks, and commercial establishments. Wisconsin Admin. Code § PSC 113.0803(1) requires that “[e]ach dwelling in a multi-dwelling unit residential building and mobile home park constructed after March 1, 1980, shall have installed a separate electric meter for each such dwelling unit.” Wisconsin Admin. Code § PSC 113.0803(3) further requires that “[a]ny existing building which undergoes alterations involving a change in type of occupancy or substantial remodeling shall have installed a separate electric meter for each tenant space.”

The individual metering requirements are generally intended to promote energy conservation, ensure that each customer is billed for his or her own consumption only, and ensure that the utility can disconnect the electric service to an individual unit without affecting the service of other units at a property. Repvblik’s petition requests a waiver of the requirement that the utility install a separate electric meter for each of the 190 separate residential tenant spaces in the Plato’s Madison, WI project at 3917 Lien Road, Madison, WI.

The Commission has specific authority to grant waivers of the individual metering requirements pursuant to Wis. Admin. Code § PSC 113.0803(5), which provides:

For reasonable cause shown, the commission may grant waivers of this rule on a case-by-case basis. Applications for a waiver must be submitted to the commission in writing and set forth the facts or reasons applicant believes justify a waiver. In cases involving multi-dwelling unit residential buildings, the applicant must show that the electric equipment under tenant control is substantially more efficient than required by applicable codes and that the overall electric usage under tenant control is minimal. Example cases which would not qualify for waiver are buildings which are electrically heated or buildings which have individual unit electric water heaters.

In cases in which applications for a waiver do not meet the above standard, the Commission also has the authority to grant a waiver due to unique, exceptional, or unusual situations. Wisconsin Admin. Code § PSC 113.01(2) provides:

Nothing in this chapter of the Wisconsin Administrative Code shall preclude special and individual consideration being given to exceptional or unusual situations and upon due investigation of the facts and circumstances therein involved, the adoption of requirements as to individual utilities or services which shall be lesser, greater, other, or different than those provided in said rules.

The Commission has granted three permanent waivers of Wis. Admin. Code § PSC 113.0803(1) since 2017 and denied three requests for a permanent waiver.<sup>1</sup> The Commission has also recently granted five temporary waivers of Wis. Admin. Code PSC 113.0803(1) related to the nationwide shortage of metering equipment resulting from the COVID-19 pandemic, which

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<sup>1</sup> Final Decision, Request of Wisconsin Public Service Corporation for a Waiver of Wis. Admin. Code § PSC 113.0803(3) Regarding Individual Electric Metering for a Renovated Building, docket 6690-EI-112 (Wis. PSC Oct. 17, 2017) ([PSC REF#: 332355](#)) (granting waiver finding that the equipment under tenant control was substantially more efficient than required by code and overall electric usage under tenant control was minimal, that individual metering would not be required if the housing project were new construction under Wis. Admin. Code § PSC 113.0803(4)(c) because alternative renewable energy systems would be used in connection with central heating ventilating and air conditioning systems; Final Decision, Request of Wisconsin Electric Power Company for a Waiver of Wis. Admin. Code § PSC 113.0803(3) Regarding Individual Metering for a Renovated Building, docket 6630-EI-114 (Wis. PSC Nov. 1, 2019) ([PSC REF#: 378692](#)) (granting waiver finding individual metering would not be required under Wis. Admin. Code § PSC 113.0803(4) if the housing project applied for were new construction as residential care facilities are exempt from individual metering); Final Decision, Request of Nicholas Balazs for a Waiver of Wis. Admin. Code § PSC 113.0803 Regarding Individual Electric Metering, for the Purpose of Installing a Photovoltaic Solar Array, docket 3270-EI-102 (Wis. PSC Aug. 22, 2022) ([PSC REF#: 445750](#)) (finding exceptional and unusual circumstances justified a waiver); Final Decision, Request of Wewerka Group, LLC for a Waiver of Wis. Admin. Code § PSC 113.0803(1) Regarding Individual Electric Meters, docket 6690-EI-113, docket 6690-EI-113 (Wis. PSC Jan. 18, 2023) ([PSC REF#: 456765](#)) (denying requested waiver because the record did not demonstrate that the equipment under tenant control was substantially more efficient than required by applicable codes or that the overall electric usage under tenant control was minimal, and failing to demonstrate “exceptional or unusual circumstances”) Final Decision, Request of Dominion Properties for a waiver of Wis. Admin. Code § PSC 113.0803(1) Regarding Individual Electric Meters in a Commercial Building, docket 6630-EI-117, (Wis. PSC, Aug. 3, 2023) ([PSC REF#: 474493](#)) (denying requested waiver because the record did not demonstrate that the equipment under tenant control was substantially more efficient than required by applicable codes or that the overall electric usage under tenant control was minimal, and failing to demonstrate “exceptional or unusual circumstances”) Final Decision, Request of Energy Concepts LLC, for a Temporary Waiver of Wis. Admin. Code § PSC 113.0803(1) Regarding Individual Electric Meters, docket 4220-EI-109 (Wis. PSC Aug 24, 2023) ([PSC REF#: 476258](#)). (denying requested waiver because the record did not demonstrate that the that the equipment under tenant control was substantially more efficient than required by applicable codes or that the overall electric usage under tenant control was minimal, and failing to demonstrate “exceptional or unusual circumstances.”

waive individual metering requirements for the period until individual metering requirement can be delivered.<sup>2</sup>

## **Application**

Republik has applied for a permanent waiver of Wis. Admin. Code § PSC 113.0803 for the renovation of an existing building to a 190-unit residential apartment building known as the Plato's Madison, WI project. Republik explained that the goal for this project is to provide workforce housing in Madison and to help address the growing gap in available housing, including between those who qualify for subsidized affordable or low-income (LIHTC) housing, and those that can afford homes and luxury apartments. The project involves the renovation of an existing two-story 197 room hotel that was most recently used as homeless housing during the COVID-19 pandemic into a residential apartment building with 190 units with an anticipated completion date of February 2024. The hotel was originally constructed in 1965 and was last renovated in 1998. Republik is seeking the waiver because it was unaware that the individual meter requirements of Wis. Admin. Code § 113.0803 applied until after consulting with MG&E on August 16, 2023, after the project was designed, permitted and construction began. Republik states that, given that construction is underway, individually metering the building at this point in

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<sup>2</sup> Final Decision, Request of Pieper Electric, Inc. for a Temporary Waiver of Wis. Admin. Code § PSC 113.0803(1) Regarding Individual Electric Meters, docket 6630-EI-115, (Wis PSC, March 8, 2023) ([PSC REF#: 461467](#)) (granting waiver finding that exceptional and unique circumstances justified a temporary waiver); Final Decision, Request of Suburban Enterprises Inc., for a Temporary Waiver of Wis. Admin. Code § PSC 113.0803(1) Regarding Individual Electric Meters, docket 6630-EI-116, (Wis PSC, May, 25, 2023) ([PSC REF#: 469080](#)) (granting waiver finding that exceptional and unique circumstances justified a temporary waiver); Final Decision, Request of Kaukauna Utilities for a Temporary Waiver of Wis. Admin. Code § PSC 113.0803(1) Regarding Individual Electric Meters for Suburban Enterprises Inc. Project, docket 2800-EI-101 (Wis. PSC, May 30, 2023) ([PSC REF#: 469217](#)) (granting waiver finding that exceptional and unique circumstances justified a temporary waiver); Final Decision, Request of Wewerka Group, LC, for a Temporary Waiver of Wis. Admin. Code § 113.0803(1) Regarding Individual Electric Meters, docket 6690-EI-114, (Wis PSC, July 6, 2023) ([PSC REF#: 472195](#)) (granting waiver finding that exceptional and unique circumstances justified a temporary waiver); Final Decision Request of Faith Technologies, for a Temporary Waiver of Wis. Admin. Code § PSC 113.0803(3) Regarding Electric Metering an a Commercial Building, docket 6630-EI-118 (Wis. PSC, September 18, 2023) ([PSC REF#: 479002](#)) (granting waiver finding that exceptional and unique circumstances justified a temporary waiver.)

the project would be extremely costly, time-intensive and difficult since the building is made out of concrete block and masonry. ([PSC REF#: 480847.](#)) Repvblik added that individually metering the building at this point in the project timeline will lead to its inability to finish the project prior to its construction loan maturing in March 2024, which will trigger a loan default. ([PSC REF#: 480847.](#))

During the planning phase of the project, based on the advice of its project team and the permitting jurisdiction (City of Madison), it was Repvblik's understanding that since the renovation of the building involves less than fifty percent of the floor area of the building, separate metering would not be required. Repvblik was also advised that the International Existing Building Code (IEBC), (which it understands has been adopted by Wisconsin with some amendments under Wis. Admin. Code §§ Ch. 361 to 366) classifies its project as a Level 2 alteration which does not require the project to have separate meters.<sup>3</sup> As a Level 2 alteration, it was Repvblik's understanding that its renovation project is subject to an exemption under the International Energy Conservation Code (IECC), including the companion provision in the Wisconsin building code, requiring separate meters for each dwelling unit (under C405.5).<sup>4</sup> Repvblik stated that "the IEBC encourages the reuse of existing buildings and the IECC provides exceptions for existing buildings in order to reuse existing systems in place to conserve materials and reduce overall waste of removal of existing systems." ([PSC REF#: 480847](#) – 5.)

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<sup>3</sup> Level 2 Alteration: Section 504 Alterations – Level 2, 504.1 Scope – Level 2 alterations include the reconfiguration of space the addition or elimination of any door or window, the reconfiguration or extension of any system, or the installation of any additional equipment. 504.2 Application – Level 2 alterations shall comply with provisions of Chapter 7 for Level 1 alterations as well as the provisions of Chapter 8 for Level 2 alterations.

<sup>4</sup> IECC 2015 – Section C501 – General, C501.2 Existing Buildings – Except as specified in this chapter, this code shall not be used to require the removal, alteration or abandonment of, nor prevent the continued use and maintenance of, an existing building or building system lawfully in existence at the time of adoption of this code. Section C505 – Change of Occupancy or Use, C501.1 General – Spaces undergoing a change in occupancy that would result in an increase in demand for either fossil fuels or electrical energy shall comply with this code.

Republik further explained that the project includes significant upgrades to make the building more energy efficient. With regards to the electrical portion of the project, the building utility demand has been reduced with the installation of high efficiency packaged terminal air conditioners, lighting and the removal of existing spaces including a commercial kitchen and outdoor pool that had high energy consumption. ([PSC REF#: 480847](#) – 8). Republik added that there are significant energy efficiency and other sustainability factors realized through adaptively reusing an existing building, rather than tearing it down and constructing a new building. ([PSC REF#: 480847](#) - 2.)

As part of the renovations, Republik stated that it is currently working with Focus on Energy, to confirm that all new lighting, appliances, heat pumps, and commercial laundry equipment meet the program's energy efficiency requirements. Other measures that it is taking to reduce energy waste include proactively sealing door frames and thresholds, and around pipes, vents, windows, and any other building penetration to prevent drafts.

The electrical use under tenants' control in each of the apartments will include electricity for: (1) packaged high efficiency terminal heat pump (PTHP) heating/cooling units<sup>5</sup>; (2) receptacles and high efficiency LED light fixtures; (3) Energy Star kitchen appliances consisting of a microwave, range, and refrigerator which meet the latest energy standards nationally.

While the heating and air conditioning systems in the apartments would not be centralized, the common areas in the building are conditioned by central HVAC units that are placed on the roof and grounds of the property.<sup>6</sup> All of the aforementioned equipment is

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<sup>5</sup> The PTHP units yield an Energy efficiency Ratio (EER) of 11.8 and a Coefficient of Performance (COP2) of 3.51 which is above the Focus on Energy minimum EER of 10.4 and minimum COP of 3.0 for energy-efficient incentive eligibility.

<sup>6</sup> Given that there is a separate electric heat pump in each rental unit that is controlled by the tenant and considering that the units are not ducted to different units, electricity is not used in central heating, ventilating and air conditioning system. ([PSC REF#: 481857](#).)

currently on a single property electric meter since this is how the property was originally constructed as a hotel. The building and the apartment units will continue to be served entirely by a central gas-fired water heater and a shared laundry facility with Energy Star Rated appliances will be offered to tenants.

MG&E states that while the facility was formerly used as a hotel, which is exempted from metering requirements under Wis. Admin. Code § 113.0803(1), it will now be used as a multi-family dwelling unit to which the requirements do apply. MG&E also states that Repvblik's renovations make applicable the requirements in Wis. Admin. Code 113.0803(3) that buildings undergoing alternations involving a change in type of occupancy or substantial remodeling shall have separate meters for each separate tenant space. MG&E argues that Repvblik's application does not satisfy the standards for a waiver of metering standards in Wis. Admin. Code § PSC 113.0803(5). Specifically, since it does not believe that the application demonstrates that the electric equipment under tenant control is substantially more efficient than required by applicable codes or that the overall electric usage under tenant control is minimal. As a result, MG&E does not support Repvblik's request. Additionally, MG&E does not believe that the applicant's situation is unique, exceptional, or unusual to justify a waiver being granted under Wis. Admin. Code § PSC 113.01(2). ([PSC REF#: 482119.](#))

## **Analysis**

As explained above, Repubvlik's building is being converted from a hotel to a residential apartment building and was exempted from individual electric metering requirements when it was used as a transient multi-dwelling building. While the docket title refers to a request for a waiver of the individual metering requirements for multi-dwelling unit residential buildings, under Wis. Admin. Code 113.0803(1), it does not appear that this requirement applies to the



building in question. The code provision specifically applies the requirement to buildings “constructed after January 1, 1980,” and Repvblik’s building was constructed in 1965. However, Wis. Admin. Code § PSC 113.0803(3) provides that “[a]ny existing building which undergoes alterations involving a change in the type of occupancy or substantial remodeling shall have installed a separate electric meter for each separate tenant space.” Here, if the Commission finds that Repvblik’s renovations result in “a change in the type of occupancy” or the extent of remodeling is “substantial”, then the Commission could conclude that separate meters for each tenant space are required. While the project will result in a change in occupancy type from transient residents to tenants, the occupants will continue to be residents of the premises.<sup>7</sup> Repvblik identifies renovation work taking place and notes that it is classified as a Level 2 alteration and involves less than fifty percent of the floor area of the building. ([PSC REF#: 480847](#).) The Commission could conclude that such renovations are not “substantial.” If the Commission concludes that Wis. Admin. Code § 113.0803(3) is not applicable, it could find that a waiver is not required.

If the Commission finds that a waiver of individual metering requirements under either (1) or (3) is required, then pursuant to Wis. Admin. Code § PSC 113.0803(5), the applicant must show that the electric equipment under the tenant’s control is substantially more efficient than is required by applicable codes. In this case, the electric equipment under the tenant’s control is Energy Star rated appliances, LED lighting and electric outlets. The Energy Star rated electric appliances under the tenants’ control include a refrigerator, microwave, and range. The Energy Star appliances are more energy efficient than their standard counterparts and are not required by law or applicable code with which Commission staff is familiar. In each of the units, tenants will

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<sup>7</sup> Wis. Admin. Code § PSC 113.012(9) defines “occupant” to mean “the resident or residents of a premises to which utility service is provided.”

also have control of a high efficiency PTHP heating/cooling unit. ([PSC REF#: 481857.](#)) The heat pump units yield an Energy Efficiency Ratio (EER) of 11.8<sup>8</sup> and a Coefficient of Performance (COP) of 3.51.<sup>9</sup> For standard comparison, Repvblik explained that, for the size of the PTHP unit specified (8,000 – 9,999 BTUh), Focus on Energy requires a minimum EER of 10.4 and minimum COP of 3.0 for energy-efficient incentive eligibility and the PTHP units. The building and apartment units will continue to be served entirely by central gas-fired water heaters. In addition, tenants will have access to a shared laundry facility with Energy Star Rated appliances.

For a waiver to be granted under Wis. Admin. Code. § PSC 113.0803(5), the applicant must also establish that overall electric usage under tenant control is minimal. The lights, appliances, apartment outlets, heat and air conditioning are under tenant control in the property. Water heaters are not under tenant control in the property. In a previous waiver of Wis. Admin. Code § PSC 113.0803(1) granted by the Commission, tenants were found to have minimal control over their electric usage when they had control over LED lighting, outlets and Energy Star kitchen appliances.<sup>10</sup>

If the Commission concludes both that the electric equipment under tenant control is substantially more efficient than required by applicable codes, and that the electric usage under tenant control is minimal, it could then evaluate whether reasonable cause has been shown for a waiver of the individual metering rule under Wis. Admin. Code § PSC 113.0803(5).

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<sup>8</sup> EER measures the energy efficiency of an air conditioner or heat pump at the outdoor cooling temperature of 95°F. The higher the EER, the more energy efficient the unit at that particular ambient temperature.

<sup>9</sup> In the case of a heat pump, its efficiency is the ratio of useful heat energy produced to electrical energy consumption. A COP of 3.51 means that the heat pump supplies 3.51 times as much heat energy to the system as it consumes in electrical energy.

<sup>10</sup> See Final Decision, 6690-EI-112, “The electric usage under tenant control will be minimal, consisting only of the draw from 100 percent LED lighting, apartment outlets and Energy Star kitchen appliances in each unit.” ([PSC REF#: 332355.](#))

On the other hand, if the Commission were to conclude that the record does not demonstrate that the electric usage under tenant control is minimal or that the equipment under the tenant control is substantially more efficient than required by applicable codes, the Commission could deny the waiver request for failure to meet the Wis. Admin. Code § PSC 113.0803(5) criteria.

If the Commission determined the record does not demonstrate that the Wis. Admin. Code § PSC 113.0803(5) standards for permitting an individual metering waiver are met, it may wish to consider whether a waiver is justified under unique circumstances presented by the application, pursuant to Wis. Admin. Code § PSC 113.01(2). Repvblik contends that, given that the project consists of the conversion of a former hotel to an apartment building, and the IEBC encourages the reuse of existing buildings and the IECC provides exceptions for existing buildings in order to reuse existing systems in place to conserve materials and reduce overall waste of removal of existing systems, the application of Wis. Admin. Code § 113.0803(3) under such circumstances would have the effect of preventing the adaptive reuse of existing buildings.

Repvblik adds that a significant amount of the existing electrical wiring is to be reused with this renovation project since it is in good working order. However, since the building was not originally designed with individual metering in mind, the existing wiring it is not compatible with individual meters. Specifically, the existing fixtures and receptacles (of which there are thousands in this building) would have to be rewired to individual load centers for each unit. Since the building is constructed out of masonry and concrete block and the existing wiring runs through masonry walls, accessing the existing wiring is not even possible without significant demolition and repair which is problematic for an existing building renovation project.

The Commission previously granted one permanent waiver for individual electric metering based on unique and exceptional circumstances. In 2022, the Commission granted a waiver under the unique and exceptional circumstances provision in response to the application of an individual customer of Madison Gas and Electric, Mr. Nicholas Balazs, in docket 3270-EI-102. The multi-dwelling building considered in that application proposed to have a solar PV system installed which would offset approximately 70 percent of the electrical usage. Based on the unique and exceptional circumstances presented, the Commission found it need not determine the question whether the electrical equipment under tenant control was substantially more efficient than required by applicable codes or whether the overall electric usage under tenant control was minimal. Instead, the Commission found that the unique circumstances presented by the application justified a waiver under Wis. Admin. Code § PSC 113.01(2). ([PSC REF#: 445750.](#))

While the circumstances presented in Repvblik's application for a waiver of individual electric metering differ from those presented by Mr. Balazs in docket 3730-EI-102, the Commission may wish to consider whether the circumstances presented in the application meet the standard for unique and exceptional circumstances.

In assessing whether to grant a waiver under either Wis. Admin. Code § PSC 113.0803(5) or Wis. Admin. Code § PSC 113.01(1)-(2), the Commission may also wish to assess the impacts of a potential waiver on consumer protection considerations.

MG&E identified a concern that in general the individual electric meter requirements of Wis. Admin. Code § PSC 113.0803 are intended to promote energy conservation and efficiency practices to help lower energy costs, which is something a customer cannot do without their own meter. ([PSC REF#: 482119](#) at 6.) Individual meters can also ensure that each individual unit is

paying for its own electric usage. The Commission may share the concern that single metering may remove the direct price signals that could encourage conservation or could burden individuals who use low amounts of energy with the subsidization of the costs of higher energy users. Alternatively, the Commission could conclude that this is not a reason for denying the waiver based on the specific facts presented by this waiver request.

There are other consumer protection issues the Commission may wish to take into consideration. In granting temporary waivers under Wis. Admin. Code § PSC 113.01(2) the Commission has recently imposed conditions to address consumer protection concerns.<sup>11</sup> Specifically, the Commission has approved waivers on the condition that the applicant neither resell the energy nor disconnect the tenants for non-payment, among other requirements unique to the specific facts of the temporary nature of the waivers. In granting permanent waivers under Wis. Admin. Code §§ PSC 113.0803(5) or 113.01(2), the Commission did not previously impose conditions.<sup>12</sup>

First, while Repvblik intends to include electric service as part of the rent and does not intend to resell electricity to its tenants, the Commission may wish to consider whether the arrangement presents risks that Repvblik or a future property owner could engage in resale or began assessing a flat charge for utility surcharge, causing the tenant to pay more for their electric service usage than if the utility had served them directly. A second consideration is whether the applicant will disconnect a tenant's electric service for non-payment. The Commission may consider whether the planned arrangement presents the following concerns: 1) disconnection to one unit affects electric service to another unit; 2) the applicant may not follow the disconnection process/procedures delineated in Wis. Admin. Code §§ PSC 113.0301,

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<sup>11</sup> See dockets 6630-EI-115, 6630-EI-116, and 2800-EI-101.

<sup>12</sup> See dockets 6690-EI-112, 6630-EI-114, and 3270-EI-102.

113.0302, 113.0303 and 113.0304; and 3) tenants may not be provided the opportunities to act in response to an impending disconnection as provided for in those same Wis. Admin. Code sections.

In response to Commission staff's data request, Repvblik reported that it does not intend to disconnect electric service for non-payment, and it intends to include electric service as part of the rent payment. While Repvblik intends to be the utility customer and does not intend to disconnect for nonpayment, if in the future Repvblik failed to pay the building's energy bill and did not enter into a deferred payment agreement with the utility, the utility could pursue disconnection for nonpayment.<sup>13</sup> A disconnection of a joint meter would disconnect service to all individual residential dwelling units. In that case, the utility would be required to issue a standard disconnection notice to the responsible party for billing (the owner) and to post notice at each individual dwelling unit of the service address at least five days before disconnection. The notice would include:

1. The date of the notice;
2. The proposed date of disconnection;
3. That, if feasible, the occupant may apply to the utility to accept responsibility for future bills and avoid disconnection of service; and
4. That if disconnection of service will aggravate an existing medical or protective services emergency, the occupant should contact the utility immediately.

Thus, if the waiver were granted and the owner failed to pay the bill at a later date, there may be an opportunity for a tenant to avoid disconnection. The Commission may have concerns

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<sup>13</sup> Pursuant to Wis. Stat. § 196.643(2), if gas electric or water service is measured jointly for 2 or more rental dwelling units, the owner shall maintain the account for gas, electric or water service in the name of the owner or in the name of the agent responsible for the collection of rent and the management of the rental dwelling units.

regarding the potential for the disconnection of the tenants' service, or alternatively could find that the existing code provisions would protect other tenants from abrupt disconnection if the owner were to fail to pay the bill.

#### **Commission Alternatives - Waiver**

**Alternative One:** Determine that the existing building constructed in 1965 is not undergoing alterations involving a change in type of occupancy or substantial remodeling such that individual meters are not required.

**Alternative Two:** Determine that the electric equipment under tenant control is substantially more efficient than required by applicable codes, and the overall electric usage under tenant control is minimal and grant Repvblik' s request for a waiver of Wis. Admin. Code § PSC 113.0803(3), pursuant to Wis. Admin. Code § PSC 113.0803(5).

**Alternative Three:** Grant Repvblik' s request for waiver of Wis. Admin. Code § PSC 113.0803(3), for an existing building requirement due to the "exceptional or unusual" circumstances presented by this request, by exercising the Commission's authority to adopt requirements different than those provided in the Administrative Code, pursuant to Wis. Admin. Code § PSC 113.01(2).

**Alternative Four:** Deny the request of Repvblik for a waiver of Wis Admin. Code § PSC 113.0803(3).

#### **Commission Alternatives - Conditions**

**Alternative One:** Imposition of one or more of the following conditions is necessary for approval of the waiver:

**Sub-Alternative A:** Repvblik shall not resell energy to tenants.

**Sub-Alternative B:** Repvblik may not disconnect tenants for non-payment.

**Sub-Alternative C:** Any other condition deemed necessary by the Commission.

**Alternative Two:** It is not necessary to impose conditions on the approval of the waiver.

JF:TK:BR:KM:kle:DL: 01969695

Key Background Documents

[Request for Waiver of Individual Electric Meter Requirements under Wis. Admin. Code § PSC 113.0803 - PSC REF#: 477129](#)

[Data Request-PSC-McFerren-1 - PSC REF#: 479050](#)

[Data Request-PSC-McFerren-2 - PSC REF#: 479051](#)

[Response to the Data Request-PSC-McFerren-1 - PSC REF#: 480847](#)

[Data Request-PSC-McFerren-3 - PSC REF#: 481699](#)

[Response to the Data Request-PSC-McFerren-3 - PSC REF#: 481857](#)

[Notice of Appearance for Madison Gas and Electric Company - PSC REF#: 482118](#)

[Response-Data Request-PSC-McFerren-2 - PSC REF#: 482119](#)